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15 **UNITED STATES BANKRUPTCY COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**
17 **SANTA ANA DIVISION**

18 In re:

19 THE LITIGATION PRACTICE GROUP P.C.,

20 Debtor.

Case No. 8:23-bk-10571-SC

Chapter 11

**SUPPLEMENTAL DECLARATION OF
RICHARD A. MARSHACK IN SUPPORT
OF MOTION FOR ORDER APPROVING
STIPULATION BETWEEN THE
DEBTOR, CONSUMER LAW GROUP,
PC; LGS HOLDCO, LLC; AND SET
FORTH, INC. F/K/A DEBTPAYPRO
WITH MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: July 21, 2023

Time: 10:00 a.m.

Judge: Hon. Scott C. Clarkson

Place: Courtroom 5C

411 West Fourth Street
Santa Ana, CA 92701

SUPPLEMENTAL DECLARATION OF RICHARD A. MARSHACK

I, RICHARD A. MARSHACK, declare:

1. I am the Chapter 11 Trustee (“Trustee”) for the bankruptcy estate (“Estate”) of The Litigation Practice Group, P.C. (“Debtor”) in the above-captioned bankruptcy case (“Case”). As such, except as expressly stated otherwise, I have personal knowledge of the facts set forth below and could and would competently testify under oath if requested to do so.

2. I submit this Supplemental Declaration in support of my Motion to Approve (“Motion”) a Stipulation with Consumer Law Group, PC, LGS Holdco, LLC (collectively “CLG”), and Set Forth, Inc. f/k/a Debtpaypro (“DPP”). At the initial hearing on the Motion on July 11, 2023, the Court continued the matter and requested that further evidence be filed in support of certain issues. All capitalized terms are defined in the Motion.

3. Between January 24, 2023, and February 10, 2023, approximately 12,000 files (“Files”) were transferred from LPG to CLG pursuant to the following terms and conditions. Based on records I reviewed, the Debtor received approximately \$6,000,000.00 from CLG for the Files on the front end of the sale, but the parties agreed that CLG would be obligated to make additional payments received from those Files that were designated as “fee-sharing.” CLG agreed to make additional payments to the Debtor for each month where it received fees from more than 6,000 of the Files it received. If this threshold was reached, CLG would pay the Debtor 40% of the fees it earned from those files designated as “fee-sharing” Files. These “fee-sharing” clients are called the Fee Shared Clients in the Motion. As of the date of the Stipulation, the amount of Fee Shared Clients is in excess of 2,000.

4. In the above transaction, CLG paid approximately \$500 per file to acquire the Files plus its obligation to make additional payments on the Fee Shared Clients. The Files transferred to CLG were a mixture of “active” files where monthly payments were currently being made and “inactive” files without current payments.

5. In my complaint against CLG, I sought to avoid and recover these transfers as fraudulent.

1 6. In my proposed compromise with CLG, I have agreed that these files will not be
2 avoided and recovered. My reasons for doing so are described below.

3 7. Since being appointed as Trustee, I have received several offers to purchase
4 unrelated files transferred by Debtor to Phoenix (that I am seeking to recover in my action against
5 Phoenix). These offers have been structured similar to the Debtor's sale of the 12,000 files to
6 CLG; however, the front end payment of these offers have only ranged from \$3,000,000 to
7 \$4,680,000. While these offers also provide for additional consideration payable based on
8 performance, the proposed percentage of future fees to be shared ranges from 20-35% instead of
9 the 40% that CLG agreed to pay if certain benchmarks were achieved.. Compared to the pre-
10 petition transaction between CLG and the Debtor, these post-bankruptcy purchase offers would
11 only yield \$230 to \$360 per file instead of the \$500 paid by CLG.

12 8. If the sale of the Files had not been made to CLG before the Petition Date, the offers
13 I have received since my appointment place a far lower value on the Files than the terms of the
14 pre-bankruptcy agreement between the Debtor and CLG.

15 9. Based on the foregoing, there is strong evidence that CLG paid reasonably
16 equivalent value for the Files when it acquired them pre-petition. Given the offers I received, it
17 would not benefit the estate to pursue litigation to recover the Files from CLG when it appears
18 other interested parties place a far lower value on the Files than CLG did. Given the value already
19 received and CLG's agreement to honor its obligation to make additional payments on the Fee
20 Shared Clients, I did not see any benefit to the Estate from continued litigation against CLG
21 regarding these Files.

22 10. While I believe the Estate could have avoided and recovered the transfer of the Files
23 to CLG, it would also likely be entitled to credit for the value it did pay to the Debtor, which would
24 reduce the value of any recovery. Furthermore, the Stipulation provides the Estate with the relief
25 it sought against CLG in the Adversary as to the Fee Shared Clients while preserving any other
26 claims the Estate has against CLG regarding the LPG Acquired Clients or other matters.

27 11. Because CLG's obligation to make additional payments on the Fee Shared Clients
28 only arises when certain benchmarks are met, I cannot estimate what these payments might be

1 going forward. I believe that some portion of the \$550,000 that has been frozen at Optimum Bank
2 is payable to the Estate as the Files met the threshold for the 40% sharing of fees in at least one
3 prior month. The Stipulation provides the Estate with visibility into the accounting of CLG on the
4 Fee Shared Clients, so there is little risk that the Estate will be deprived of amounts properly
5 payable to it.

6 12. While CLG appears to be a profitable company, there would still be a significant
7 expense to the Estate to litigate its claims against CLG, pursue discovery, obtain experts to value
8 the Files transferred to CLG accounting for the value CLG actually paid and has promised to pay
9 for the Files, obtain a judgment, and then enforce or collect any judgment. If the Files were
10 returned to the Debtor, the Debtor would have no choice to sell the Files for the reduced offers I
11 have previously received because the Estate does not have the ability to provide long-term services
12 to the clients.

13 13. In short, the Stipulation provides the Estate with all the benefits of CLG retaining
14 the Fee Shared Client files without the costs and risks of litigation and without the Debtor having
15 to provide the services that the Files require. This Stipulation also provides the Debtor's former
16 consumer clients with access to the legal services they need.

17 14. Although CLG is the potential purchaser identified in the Sale Motion, the terms of
18 the proposed sale require that CLG pay the Estate from funds unrelated to the Fee Shared Clients.
19 The Stipulation is not part of the proposed sale; however, the Stipulation is needed to permit CLG
20 to service its clients, to provide funds to the Estate, and to provide assistance to Trustee's efforts
21 in the pending adversary proceeding.

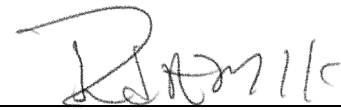
22 15. The Stipulation will not release or resolve any claims that the Estate may have
23 against CLG except as expressly set forth. The Stipulation provides the Estate with a substantial
24 right to oversee CLG's compliance with the Stipulation, and CLG will remain a party in the
25 Adversary Proceeding so any violations of the Stipulation can be enforced.

26 16. In my business judgment, I do not believe I could obtain a superior outcome in the
27 Adversary with respect to the Fee Shared Clients than that provided in the Stipulation. The
28 stipulation was negotiated at arm's length with both sides represented by counsel.

1 17. In my business judgment, the relief sought in the Motion is in the best interests of
2 the Estate because the Stipulation will provide funds to the Estate that will be held in a blocked
3 account, additional information regarding avoidance actions, and legal services to the clients
4 included in the LPG Fee Shared Clients. The Stipulation will also provide certain releases to the
5 Estate to limit further litigation and disputes.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct.

8
9 DATED: July 17, 2023



Richard A. Marshack